

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	File Number EB-02-TP-249
)	
Accessory Connection Inc.)	NAL/Acct. No.200232700019
C/O Jon Hannan, Jr.)	FRN 0007-3078-12
1205 Dewar Court)	
Palm Bay, Florida 32905)	

NOTICE OF APPARENT LIABILITY FOR FORFEITURE

Released: August 5, 2002

By the Enforcement Bureau, Tampa Office:

I. INTRODUCTION

1. In this *Notice of Apparent Liability for Forfeiture* (“NAL”), we find Accessory Connection Inc. (“Accessory”), apparently liable for a forfeiture in the amount of twenty thousand dollars (\$20,000) for willful and repeated violation of Sections 301 and 302(b) of the Communications Act of 1934, as amended (“Act”).¹ Specifically, we find Accessory Connection Inc. apparently liable for operation of radio transmission equipment without the required Commission authorization and use of a radio frequency device that failed to comply with Commission regulations.

II. BACKGROUND

2. On April 29, 2002, the Commission’s Tampa Field Office (“Tampa Office”) received a complaint of interference to a cellular radio site in Jensen Beach, Florida. The interference reportedly emanated from a cellular antenna light display unit located in a retail kiosk operated by Accessory located in the Treasure Coast Square Mall in Jensen Beach, Florida. The Tampa Office contacted the cellular telephone company experiencing the interference. A representative of the cellular telephone company stated that they had notified personnel operating the Accessory store that operation of the device caused interference to their cellular radio system. The cellular company representative hand-delivered to personnel operating the Accessory store the FCC Public Notice (DA#02-401) that warns vendors and operators of the potential of interference to cellular communications and of the potential violations and penalties for operating cellular antenna light display units.

3. On April 30, 2002, agents of the Tampa Office traveled to the Treasure Coast Square Mall, Jensen Beach, Florida to investigate the interference complaint. The agents approached the Accessory kiosk and noted a cellular antenna light display unit, but it was not operating at the time. The agents asked a sales person if an antenna light would operate on a cellular phone. The sales person replied, “Yes, let me turn it on.” The agents then conducted an inspection of the cellular antenna light display

¹ 47 U.S.C. §§ 301 and 302a(b)

unit. The unit was not certified by the FCC. Furthermore, based on field strength measurements taken by the agents of the device's signal, this device required a license to operate. FCC records showed that there was no authorization to operate this device. A warning letter was left with Accessory's sales person, along with a verbal warning that the device must not be turned on. The sales person signed the warning letter acknowledging its receipt as "Amanda Rogers."

4. On May 20, 2002, the Tampa Office received another complaint from the cellular telephone system licensee stating that, on May 18, 2002, between 6:30 and 9:00 P.M., the cellular antenna light display unit located at Accessory Connection in Jensen Beach, Florida interfered with cellular telephone communications.

5. On May 22, 2002, the Tampa Office mailed, via certified mail return receipt requested, an official Citation to Mr. Jon Hannan, Jr., president and registered agent of Accessory. The Citation warned Accessory that operation of non-certified cellphone antenna light display units violated the Act and the Commission's Rules, explained the penalties for such violations, and ordered that such violations cease immediately. A signed certified receipt evidenced Accessory's receipt of the Citation on May 25, 2002.

6. On June 13, 2002, an agent from the Tampa Office traveled to the Treasure Coast Square Mall in Jensen Beach, Florida. Upon arrival he observed a cellular antenna light display unit operating at the Accessory kiosk. The agent verified with the cellular telephone company that interference was being received and customers were not able to make cellular calls. The agent then returned to the Accessory kiosk to conduct an inspection and make field strength measurements. Again, the agent found a cellular antenna light display unit that was not in compliance with FCC requirements because it was not certified and operated without required Commission authorization. A verbal warning was given to the Accessory sales person that the device must not be turned on. The sales person turned the device off. A check with the cellular telephone company verified that they were no longer receiving interference.

III. DISCUSSION

7. Section 301 of the Act sets forth generally that no person shall use or operate any apparatus for the transmission of energy of communications or signals by radio within the United States except under and in accordance with the Act and with a license. On April 30 and June 13, 2002, Accessory operated radio transmission equipment, namely a cellphone antenna light display unit, without benefit of the required Commission license.² Section 302 of the Act authorizes the Commission to regulate equipment capable of emitting radio frequency energy that may cause interference to radio communications. Section 302(b) further states that no person shall use such devices that fail to comply

² Section 301 of the Act generally requires issuance of an individual license to operate radio transmission equipment. Part 15 of the Commission's Rules allows operation of certain very low power devices without issuance of an individual license provided the devices meet equipment authorization requirements and the strict radiation limits of the Commission's Rules. See 47 C.F.R. § 15.1, *et seq.* The device operated by Accessory far exceeded the allowed radiation limits for such low-power *non-licensed* devices. See 47 C.F.R. § 15.209.

with Commission regulations. On April 30 and June 13, 2002, Accessory operated a radio frequency device, namely a cellphone antenna display unit, that did not possess the required FCC equipment certification, that exceeded the radiation limitations for such devices, and that caused harmful interference.³

8. Based on the evidence before us, we find Accessory Connection Inc. willfully⁴ and repeatedly⁵ violated Sections 301 and 302(b) of the Communications Act of 1934, as amended, by operating an unauthorized cellular antenna light display unit without the required Commission authorization.

9. Pursuant to Section 1.80(b)(4) of the Rules,⁶ the base forfeiture amount for operation of radio transmission equipment without an authorization is \$10,000. In assessing the monetary forfeiture amount, we must also take into account the statutory factors set forth in Section 503(b)(2)(D) of the Communications Act of 1934, as amended, which include the nature, circumstances, extent, and gravity of the violation, and with respect to the violator, the degree of culpability, any history of prior offenses, ability to pay, and other such matters as justice may require.⁷ Accessory's violations are repeated, and occurred after repeated written and verbal warnings, and Accessory's violations caused harmful interference to authorized radio communications. Therefore, considering the entire record and applying the factors listed above, this case warrants an upwards adjustment of the base forfeiture amount from \$10,000 to \$20,000.

IV. ORDERING CLAUSES

10. Accordingly, IT IS ORDERED THAT, pursuant to Section 503(b) of the Act,⁸ and Sections 0.111, 0.311 and 1.80 of the Rules,⁹ Accessory Connection Inc. is hereby NOTIFIED of this APPARENT LIABILITY FOR A FORFEITURE in the amount of twenty thousand dollars (\$20,000) for willful and repeated violation of Sections 301 and 302(b) of the Act by operating a radio frequency device without the required license, and using a device that failed to comply with the Commission's regulations.

11. IT IS FURTHER ORDERED THAT, pursuant to Section 1.80 of the Rules, within thirty days of the release date of this *NAL*, Accessory Connection Inc. SHALL PAY the full amount of the proposed forfeiture or SHALL FILE a written statement seeking reduction or cancellation of the proposed forfeiture.

³ See 47 C.F.R. §§ 15.201(b), 15.209, and 15.5.

⁴ Section 312(f)(1) of the Act, 47 U.S.C. § 312(f)(1), which applies to violations for which forfeitures are assessed under Section 503(b) of the Act, provides that "[t]he term 'willful', when used with reference to the commission or omission of any act, means the conscious and deliberate commission or omission of such act, irrespective of any intent to violate any provision of this Act" See *Southern California Broadcasting Co.*, 6 FCC Rcd 4387-88 (1991).

⁵ The term "repeated," when used with reference to the commission or omission of any act, "means the commission or omission of such act more than once or, if such commission or omission is continuous, for more than one day." 47 U.S.C. § 312(f)(2).

⁶ 47 C.F.R. § 1.80(b)(4).

⁷ 47 U.S.C. § 503(b)(2)(D).

⁸ 47 U.S.C. § 503(b).

⁹ 47 C.F.R. §§ 0.111, 0.311, 1.80.

12. Payment of the forfeiture may be made by mailing a check or similar instrument, payable to the order of the Federal Communications Commission, to the Forfeiture Collection Section, Finance Branch, Federal Communications Commission, P.O. Box 73482, Chicago, Illinois 60673-7482. The payment should note the NAL/Acct. No. and FRN referenced above. Requests for payment of the full amount of this *NAL* under an installment plan should be sent to: Chief, Revenue and Receivables Operations Group, 445 12th Street, S.W., Washington, D.C. 20554.¹⁰

13. The response, if any, must be mailed to Federal Communications Commission, Office of the Secretary, 445 12th Street SW, Washington DC 20554, Attn: Enforcement Bureau-Technical & Public Safety Division and MUST INCLUDE THE NAL/Acct. No. referenced above.

14. The Commission will not consider reducing or canceling a forfeiture in response to a claim of inability to pay unless the petitioner submits: (1) federal tax returns for the most recent three-year period; (2) financial statements prepared according to generally accepted accounting practices (“GAAP”); or (3) some other reliable and objective documentation that accurately reflects the petitioner’s current financial status. Any claim of inability to pay must specifically identify the basis for the claim by reference to the financial documentation submitted.

15. IT IS FURTHER ORDERED THAT a copy of this *NAL* shall be sent by regular mail and Certified Mail Return Receipt Requested to Accessory Connection Inc., c/o Jon Hannan, Jr., 1205 Dewar Court, Palm Bay, Florida 32905.

FEDERAL COMMUNICATIONS COMMISSION

Ralph M. Barlow
Tampa Office, Enforcement Bureau

¹⁰ See 47 C.F.R. § 1.1914.